

Assembly Bill No. 3051

Passed the Assembly June 30, 2008

Chief Clerk of the Assembly

Passed the Senate June 26, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1517 of the Probate Code, and to amend Section 349 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 3051, Jones. Dependent children.

(1) Existing law regulates the establishment and termination of guardianships. Existing law excepts from these provisions guardianships that result from the selection and implementation of a permanent plan for a child adjudged a dependent child of the court under specified circumstances.

This bill would prohibit the guardianship laws described above from being construed to prevent a court that assumes jurisdiction of a minor child or a probate court, as specified, from issuing orders or making appointments, on the motion of the child's counsel, necessary to ensure the appropriate administration of funds for the benefit of the child, as specified. The bill would provide that orders or appointments established under these circumstances may continue after the court's jurisdiction is terminated, as specified. The bill also would correct obsolete cross-references in connection with these provisions.

(2) Existing law entitles a minor who is the subject of a juvenile court hearing involving dependent child proceedings to be present at that hearing. The minor has the right to be represented at the hearing by counsel of his or her own choice.

This bill would require the court to allow a minor who is the subject of a juvenile court hearing involving dependent child proceedings and who is present at the hearing, to address the court and participate in the hearing, if the minor so desires.

(3) Existing law requires the court to determine whether a minor was properly notified of his or her right to attend the hearing when that minor is 10 years of age or older, is the subject of a juvenile court hearing involving dependent child proceedings, and is not present at the hearing.

This bill would also require the court to inquire whether the minor was given an opportunity to attend the hearing. This bill

would require the court to continue the hearing to allow the minor to be present, if the court finds the minor was not properly notified or if he or she wished to be present and was not given an opportunity to be present, unless the court finds that it is in the best interest of the minor not to continue the hearing. The bill would require that the court continue the hearing only for that period of time necessary to provide notice and secure the presence of the child. The bill would also authorize the court to issue any and all orders reasonably necessary to ensure that the child has an opportunity to attend. The bill would also declare that nothing in those provisions shall prevent or limit any child's right to attend or participate in the hearing.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that all children who want to attend their juvenile court hearings be given the means and the opportunity to attend, that these hearings be set to accommodate children's schedules, and that courtrooms and waiting areas help facilitate their attendance and participation. It is also the intent of the Legislature that juvenile courts promote communication with, and the participation of, children in attendance at hearings of which they are the subject, and that children attending these hearings leave the hearing with a clear understanding of what decisions the court made and why, and that the Administrative Office of the Courts help promote these objectives.

SEC. 2. Section 1517 of the Probate Code is amended to read:

1517. (a) This part does not apply to guardianships resulting from the selection and implementation of a permanent plan pursuant to Section 366.26 of the Welfare and Institutions Code. For those minors, Section 366.26 of the Welfare and Institutions Code and Division 3 (commencing with Rule 5.500) of Title Five of the California Rules of Court specify the exclusive procedures for establishing, modifying, and terminating legal guardianships. If no specific provision of the Welfare and Institutions Code or the California Rules of Court is applicable, the provisions applicable to the administration of estates under Part 4 (commencing with Section 2100) govern so far as they are applicable to like situations.

(b) This chapter shall not be construed to prevent a court that assumes jurisdiction of a minor child pursuant to Section 300 of the Welfare and Institutions Code, or a probate court, as appropriate, from issuing orders or making appointments, on motion of the child's counsel, consistent with Division 2 of the Welfare and Institutions Code or Divisions 4 to 6, inclusive, of the Probate Code necessary to ensure the appropriate administration of funds for the benefit of the child. Orders or appointments regarding those funds may continue after the court's jurisdiction is terminated pursuant to Section 391 of the Welfare and Institutions Code.

SEC. 3. Section 349 of the Welfare and Institutions Code is amended to read:

349. (a) A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Sections 290.1 and 290.2, is entitled to be present at the hearing.

(b) The minor and any person who is entitled to that notice has the right to be represented at the hearing by counsel of his or her own choice.

(c) If the minor is present at the hearing, the court shall allow the minor, if the minor so desires, to address the court and participate in the hearing.

(d) If the minor is 10 years of age or older and he or she is not present at the hearing, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire whether the minor was given an opportunity to attend. If that minor was not properly notified or if he or she wished to be present and was not given an opportunity to be present, the court shall continue the hearing to allow the minor to be present unless the court finds that it is in the best interest of the minor not to continue the hearing. The court shall continue the hearing only for that period of time necessary to provide notice and secure the presence of the child. The court may issue any and all orders reasonably necessary to ensure that the child has an opportunity to attend.

(e) Nothing in this section shall prevent or limit any child's right to attend or participate in the hearing.

Approved _____, 2008

Governor